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C O N F I D E N T I A L SECTION 01 OF 03 BEIRUT 000263

SIPDIS

DEPT FOR NEA/FO, NEA/ELA

ALSO FOR IO PDAS WARLICK

P FOR DRUSSELL AND RRANGASWAMY

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NSC FOR MCDERMOTT

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TAGS: PREL PGOV PTER PINR UNSC KJUS SY LE

SUBJECT: LEBANON: NEW MOU WITH TRIBUNAL PROSECUTOR MAY BE DROPPED AS UNNECESSARY

REF: A. BEIRUT 247

¶B. BEIRUT 240

¶C. BEIRUT 101

Classified By: CDA William Grant for reasons 1.4 (b) and (d).

SUMMARY

¶1. (C) Justice Minister Ibrahim Najjar said that the Special Tribunal for Lebanon's (STL) Prosecutor asked for an MOU with the GOL so that he could continue his investigation in Lebanon. Najjar, a March 14 minister but not known as a political figure, presented the draft MOU in the February 26 cabinet session without any preliminary preparation, surprising PM Siniora and others in the cabinet. Hizballah's single cabinet minister asked for more time to study it before the cabinet acted. Najjar anticipated that Hizballah would not ultimately block the MOU, but could request conditions, a move which Najjar deemed reasonable. Separately, though, March 14 minister Nassib Lahoud told us that Najjar made a tactical error and that March 14 figures were preparing a separate draft MOU with "softer" language and might also recommend dropping the proposed new MOU as unnecessary for the GOL to continue to cooperate with the STL Prosecutor.

¶2. (C) Najjar suggested that UNIIIC was behind the February 25 release of the three suspects in the Hariri assassination, and that the STL would request the four generals' transfer to The Hague "very soon." Najjar proposed that President Sleiman nominate two or three members of the ten-member Constitutional Court to avoid the contentious process delaying their appointment. Najjar and Lahoud both predicted with confidence that independent MP Michel Murr, who is allied with March 14, would defeat opposition-aligned Michel Aoun in the heavily Christian Metn district where Aoun won all eight seats in the last election. End summary.

HIZBALLAH MULLING OVER
TRIBUNAL MOU; NAJJAR CONFIDENT
MOU WILL BE SIGNED

¶3. (C) CDA, accompanied by PolOff, met with Justice Minister Ibrahim Najjar at his residence on March 4. Najjar was using crutches as he continues to recover from a serious December 10 automobile accident, although he is working normally.

Explaining why he submitted at the February 26 cabinet a draft MOU between the GOL and the Special Tribunal for Lebanon's (STL) Office of the Prosecutor (Ref B), Najjar said that STL Prosecutor Daniel Bellemare requested a written MOU defining his rights to continue his investigation in Lebanon.

The argument in favor of a new MOU, Najjar said, was that Bellemare's investigatory powers in Lebanon ended when he made the transition from UNIIC Commissioner to STL Prosecutor on March 1.

¶4. (C) According to Najjar, Bellemare drafted a "reasonable" MOU, which mirrors the MOU previously signed between the GOL and UNIIC, and sent it to the Justice Minister on February 126. Najjar did not do any preliminary consultations with fellow cabinet members on the new MOU, but simply distributed copies to all ministers at the February 26 cabinet meeting and asked for action. Najjar reported that Hizballah Minister Mohammed Fneish requested time to study the document. One week later, Najjar telephoned Fneish to inquire about his review, and Fneish reportedly said he needed a bit more time, and might have a response March 5, when the cabinet was expected to convene again.

¶5. (C) No other political leaders, including opposition-aligned Speaker Nabih Berri, voiced objections to the MOU, Najjar said. Najjar assessed that Hizballah could not outright reject the MOU, but could introduce conditions, for example, requiring that any action be subject to Lebanese law. This would be a fair condition, Najjar evaluated. In fact, Najjar added, the language used was not ideal. He noted that he had already prepared an alternate version and

BEIRUT 00000263 002 OF 003

anticipated this issue would be soon resolved.

¶6. (C) Providing a separate version of events, March 14 Minister of State Nassib Lahoud March 5 told CDA and PolEconOff the next day that Najjar had made a mistake in his handling of the MOU issue. He argued Najjar should have realized that the language in the MOU, agreed upon under a different, non-national unity cabinet, would encounter problems; some of the wording was inflammatory, he said. Lahoud said he himself would have requested more time to review the previously un-coordinated MOU had it covered any issue besides the STL. Lahoud added that March 14 Minister of State Khaled Qabbani is preparing the "lighter" version mentioned by Najjar.

¶7. (C) Additionally, according to Lahoud, Judge Choucri Sader -- head of the State Shura Council and a long-time legal expert on STL issues -- has advised President Sleiman that no new MOU even is necessary for Bellemare to continue his work.

March 14 is weighing whether to discuss the new version of the MOU or to drop the issue entirely. Lahoud also expected the issue to be addressed at March 5 cabinet session.

UNIIC BEHIND RELEASE
OF THREE SUSPECTS

¶8. (C) Najjar indicated that Examining Magistrate Saqr Saqr released the three suspects in the Hariri assassination on February 25 (Ref B) after receiving some sort of hint from UNIIC, explaining, "The Lebanese judges involved would not have made this decision themselves." Relaying a conversation he had with Bellemare the previous day, Najjar said Bellemare planned to request the transfer of the four generals detained in connection with the Hariri assassination "very soon," implying Bellemare would not wait for additional formalities at the new STL in the Hague. Najjar assured CDA that he would comply with any decision taken on the generals.

CONSTITUTIONAL COURT
NOMINATIONS REMAIN STALLED

¶9. (C) Emphasizing that the cabinet had not yet discussed the issue of nominating five members to the ten-member Constitutional Court (Ref A), Najjar noted that choosing the president of the Constitutional Court posed the greatest challenge. From Najjar's perspective, President Sleiman could nominate the five remaining judges, which would fairly resolve the problems caused after parliament's contentious process to name the first five judges.

¶10. (C) Najjar accused Druze leader Walid Jumblatt of disrupting the process in parliament after he reneged on a previous agreement and "forced" the selection of Antoine Kheir, who "no one had wanted." Najjar said he advised Sleiman to select two or three judges, and the cabinet would make the remaining nominations, and this issue could be resolved soon. "Whoever Sleiman chooses will be good and widely accepted," he declared.

¶11. (C) Najjar reported that he was still working on the appointments for trial judges (Ref C), explaining that while no cabinet approval is needed, the issue of appointing the head of the Judicial Inspection unit remained. He attributed the delay to personal and political animosity between Berri and Prime Minister Fouad Siniora; "they hate each other", Najjar said.

MICHEL MURR WILL SWEEP METN
IN PARLIAMENTARY ELECTIONS

¶12. (C) Underlining the importance of holding elections in one day (as opposed to two, as Free Patriotic Movement leader Michel Aoun has been suggesting), Najjar said that, if the voting were on multiple days, Christian voters would react to early outcomes. That helped Aoun in 2005, he said. Najjar predicted that MP Michel Murr, allied with March 14, would

BEIRUT 00000263 003 OF 003

win all eight seats in the Metn district, which would be a "terrible" defeat for Aoun who won the eight seats in 2005. Lahoud, who is a candidate from the Metn and who is not prone to overstatement, was similarly optimistic. He thought a list headed by Murr and including himself and Amine Gemayel or his designee, plus other candidates, would win all or most of Metn's eight seats.

GRANT